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OFFICE OF PETITIONS

In re Application of
Birkhead et al.
Application No. 10/693,867
Filed: October 28, 2003
Attorney Docket No. 026611-000100US

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed July 9, 2007.

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on January 5, 2007. The final Office Action set a three (3) month shortened statutory period for reply. An amendment was submitted on March 5, 2007. In response to the amendment an Advisory Action was mailed on April 4, 2007 indicating the amendment submitted on March 5, 2007 did not place the application in condition for allowance. Accordingly, this application became abandoned on April 6, 2007. This decision precedes the mailing of a Notice of Abandonment.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

A three (3) month extension of time was requested. However, pursuant to 37 CFR §1.136, an extension of time must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988) Petitioner's six (6) month statutory period expired on July 6, 2007. Petitioner is ineligible for any extensions of time. The \$510 extension of time fee will be refunded. Further review of the record shows that this application is a utility application filed after June 8, 1995. Accordingly, a terminal disclaimer to accompany a petition is not required. The \$130.00 terminal disclaimer fee will be refunded to deposit account no. 20-1430.

The two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 41.20(b)(2)), will run from the mail date of this petition decision.

The application will be forwarded to Technology Center 2600 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

A handwritten signature in black ink, appearing to read "Charlema R. Grant", with a stylized flourish at the end.

Charlema R. Grant
Petitions Attorney
Office of Petitions